



POLICE DEPARTMENT

May 25, 2010

MEMORANDUM FOR: Police Commissioner

Re: Detective Anthony Schaffer
Tax Registry No. 920817
Narcotics Borough Bronx
Disciplinary Case No. 84918/09

The above-named member of the Department appeared before me on September 30, 2009 and December 2, 2009, charged with the following:

1. Detective Anthony Schaffer, while assigned to Narcotics Borough Bronx, while on-duty, on or about August 3, 2007, in the vicinity of 1970 Morris Avenue, in Bronx County, did abuse his authority as a member of the New York City Police Department in that said Detective wrongfully and without just cause did threaten to use force against Mr. Christopher Marine, to wit: said Detective stated in sum and substance, "I am going to fuck him up." (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – ABUSE OF AUTHORITY

2. Detective Anthony Schaffer, while assigned to Narcotics Borough Bronx, while on-duty, on or about August 3, 2007, in the vicinity of 1970 Morris Avenue, in Bronx County, did fail to maintain his Activity Log in that after an encounter with Mr. Christopher Marine, said Detective did not make sufficient notations about the encounter in his Activity Log or safe guard said Activity Log as provided for in Patrol Guide Section 212-08. (*As amended*)

P.G. 212-08, Page 1 – ACTIVITY LOGS

3. Detective Anthony Schaffer, while assigned to Narcotics Borough Bronx, while on-duty, on or about August 3, 2007, in the vicinity of 1970 Morris Avenue, in Bronx County, did abuse his authority as a member of the New York City Police Department in that said Detective did use force against Mr. Christopher Marine, to wit said Detective did use his hands and feet to strike Mr. Marine without police necessity. (*As amended*)

P.G. 203-11, Page 1, Paragraph 2 – FORCE

COURTESY • PROFESSIONALISM • RESPECT

The Department was represented by Adam Sheldon, Esq., Department Advocate's Office, and the Respondent was represented by Peter Brill, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty of Specification No. 1, Guilty in part of Specification No. 2, and Guilty in part of Specification No. 3.

INTRODUCTION

It is not in dispute that on August 3, 2007, the Respondent was involved in a buy and bust operation. He sat in a Police Department vehicle waiting for instruction over a radio. It is also not in dispute that the Respondent, hearing a description over the radio saw Christopher Marine (Marine) running and believed he was the suspect who had the interaction with the undercover. It is further not disputed that the Respondent pursued Marine into the vestibule of 1970 Morris Avenue and had an altercation with him which led to his arrest and being handcuffed. What *is* in dispute is whether the Respondent during his interaction with Marine threatened to use force against Marine when he stated in sum and substance, "I am going to fuck him up" (Specification No. 1); whether the Respondent failed to maintain his Activity Log by making sufficient notations about his encounter with Marine or failed to safeguard his Activity Log (Specification No. 2); and whether the Respondent abused his authority as a member of the New York City Police

Department by using force against Marine, to wit: using his hands and feet to strike Marine without police necessity.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department offered the three out-of-court statements of Christopher Marine¹: The Civilian Complaint Review Board (CCRB) telephone interview of Marine held on August 6, 2007 [Department's Exhibit (DX) 1A]; CCRB telephone interview of Marine held on August 8, 2007 (DX 2A); and CCRB interview of Marine held on November 15, 2007 (DX 3A).

August 6, 2007 CCRB Telephone Interview of Christopher Marine

Marine identified himself as an African-American male whose date of birth is July 9, 1959. He stated that he lived at 1970 Morris Avenue in Bronx, New York in a private house. He was with Jerome Reyes, an African-American, whose date of birth is December 8, 1958. On Friday August 4, 2007, they were entering the building lobby and were going inside the hallway in an effort to enter the building. Police officers came "from nowhere," rushed them and all of a sudden "began beating them down". Marine said the next thing he knew there were four or five police officers beating him and Reyes, handcuffing them, kicking them, throwing them on the sidewalk, and hitting them as they were placing them in the car. He estimated that there were between four to eight officers at the scene but approximately four officers were actually doing the beating. He stated

¹ Marine is currently mentally and physically incapacitated due to a physical assault involving a metal chair (unrelated to these events) and is unable to appear at this proceeding.

that the officers were in unmarked cars, they were not in uniform and they would not disclose their shield numbers or their names.

Marine described one of the officers as a white male, one as a detective, and he did not know what the other officers were. He stated that all of them were approximately six feet in height and 200 pounds. He said the officers were from the 46 Precinct. He also stated that he was arrested for resisting arrest, disrupting of administrative duties and assault. Marine stated that as a result of the incident he sustained a broken nose, a sprained left ankle, multiple bruises on the left leg and left arm. He said Reyes was kicked in the back and in the groin area and sustained lacerations on the back and swelling to his left arm, which was also sprained.

Marine said the details of his complaint is that he and his friend were going into the building where they live when the cops came from nowhere and started physically pounding on them for no reason whatsoever. He said they were both handcuffed and still the officers continued to "pound on them," kicking and beating them. He said the officers were out of control and they really hurt him and his buddy. He described the officers as "thugs with badges and guns" because of the way they acted. He stated that during the first encounter with the officers they never identified themselves and never stated why they were stopping them. Marine also said that the officers told his friend that Marine was the target not him. He said his friend was also told that if he signed papers that Marine started the incident he would release him right on the spot. Marine said this matter really needs to be looked into because he is really hurting and these officers need to be taken off of the streets.

August 8, 2007 CCRB Telephone Interview of Christopher Marine

CCRB Investigator Bratton attempted to interview Marine on August 7, 2007 without success. On August 8, 2007, she was able to reach Marine by telephone. Bratton explained to Marine that she was a civilian not a police officer and that she works for the city. She also informed him that she was neutral and that she was going to record the telephone call for quality control purposes. She verified his address, his telephone number and received an alternate telephone number from him.

Marine stated that the incident took place on a Friday evening and he was with his friend Jerome [Reyes]. It started to rain heavy and they began hustling towards their house to get out of the rain. Marine said he opened the first door and went in. As he was trying to open the second door, some men just broke in the door and started beating the two of them. Marine said he did not know they were police officers right away because they did not identify themselves. They were in plain clothes and began slamming the two of them against the wall, kicking and punching them. Marine said that before he knew it "everything was just out of control." He said he was on the floor yelling, "Hey what's going?" Another officer had his friend up against the wall. Marine said at that point things began to escalate. He was placed in handcuffs and dragged from the hallway where he was kicked, punched and beaten right outside on the front "stoop of his building where he lives." He was able to see his mother, his nieces, nephews and neighbors standing and watching. He heard the officers tell people to "shut up" and "mind their business."

Marine stated that this activity continued at the station house. He was continually beaten. He said that he had handcuffs and ankle shackles and the officers continued to

beat him. He was thrown against the wall in the station house and even though there were a lot of cops standing around, no one said anything. Marine said he ended up with a broken nose, a sprained ankle, multiple bruises around the body and two black eyes. He said eventually he was taken to the hospital after requesting medical treatment some two or three hours later. After the hospital, he was taken to central booking where he was arraigned. He remained in custody for two days and then he was taken before a judge.

Bratton asked Marine some follow up questions. He stated that he was in the vestibule when he first saw the police officers. He noted to enter his building there are two doors. You enter the first door and you are in the vestibule and then you enter the second door to get into the building. He estimated seeing between four and five police officers. He stated that they were all males and none of them had shields on. Marine stated that he realized that they were police officers when he was at the station house. He said no words were exchanged before the officers began beating him. Marine described two officers in particular who were beating him up. He said they were both white males. One was blond with dusty blond curly hair, approximately 6'2" in height and 220 pounds. He estimated his age to be in the mid 40s. He stated that he could not recall what he was wearing because it was dark, nighttime and it was raining. He could not give a physical description of the second officer.

Marine said that the officers were also beating up his friend Reyes. He said that Reyes was able to get to the second floor in the building before he was dragged down the stairs. Marine was able to see this from the hallway area in the building. Marine said it was the tall blonde officer who was vicious and who also pursued Reyes. He stated that that same blonde officer also stomped his [Marine's] legs. After dragging Reyes down

the steps he was taken outside to a car and Marine was taken to another car. He explained that he had already been handcuffed in the lobby area. He did not know who handcuffed him but he had an encounter with between four and five officers in the lobby.

When describing Reyes being dragged down the stairs, Marine stated that one officer had him by the back of his collar and another officer was dragging him by the waist with both hands. He could not recall exactly at what point Reyes was placed in handcuffs. He stated that he was not handcuffed while being dragged down the stairs because he saw him flailing his body to prevent from being injured. He recalled a friend of his named Steven Pinks asking the officers for their badges and names. He stated that Pinks lives in New Jersey but has a mother who lives four doors down from him and he visits her often. He stated that he has a phone number for Pinks. Marine said the officers continued doing what they were doing and ignored Pinks' request. Marine said that he and Reyes were placed in separate vehicles; he only remembered that all of the vehicles were black and that one was a "4x4," but he could not give any further description of the vehicle in terms of make or model. Marine said that as he was being transported to the precinct there were three officers in the vehicle. The one sitting next to him continued to hit him and slap him and utter curse words at him. He stated that the officers seated in the front passenger seat did the same.

Once at the 46 Precinct station house, Marine stated that he was still handcuffed and taken to a hallway area where he was told to sit. There the officers continued to "brutalize" him by slapping him around and cursing at him and stomping on his right ankle. Marine said that prior to being beaten, the officers put shackles on his ankles in the station house. He said that there were approximately 15 police officers in the area

just watching and no one took action. He said he does not carry guns, knives or drugs and that he is not a big guy. He described himself as 6'0", 180 pounds and slim. He stated that when he asked what they were doing, one of the officers responded, "Ah, shut up. You lucky you just got a broken- - a busted nose."

Marine stated that eventually EMS came and he was taken to the hospital. He could not estimate how long it was before he was transported to the hospital. He explained that no one asked him whether he needed medical attention but he yelled out that he was hurt and needed to go to the hospital. He said that Reyes was also injured with multiple bruises, a sprained left arm and his eyes were burning from Mace². He stated that Reyes was sprayed with Mace in the beginning of the melee in the hallway. He explained that he heard Reyes saying, "my eyes, my eyes," but he did not actually see him get Maced. Marine stated that his mother saw Reyes get Maced by the big officer.

Once at the hospital, Marine stated that his bloody nose was cleaned up. They could not reset his nose. He was given a CT scan and his ankle was checked as well as his knee. He explained that he had a bad bruise on his knee. He said that although he had bumps and bruises on his head, he did not have a concussion. With respect to his ankle he was not given any treatment, he was just told to stay off of his feet, elevate, ice and keep off of his feet. Marine said he has photographs of his injuries and the police took photographs of his injuries also. He explained that the same officers that transported him to the hospital, one was black and the other one was Hispanic, asked to take pictures of him while he was on a gurney at the hospital. He did not get their names. He stated that the only conversation he had with them was to give them his name and he did not want to talk anymore. They wanted to write a report but he did not have a conversation

² Pepper spray

with them.

After the hospital, Marine was taken to central booking. Marine said that as far as he knew, Reyes also received medical treatment while in police custody. They were separated and he did not see him for two days but he informed him that he did receive medical treatment while in custody. Marine said that the police charged him with assault and resisting arrest. He said there was an attempt to set bail at \$2500 on him but the judge said, "These are misdemeanors. I'm not holding this man." Marine said although there were implications in court that he was a drug user and that he had something to do with methadone, he stated that he was not charged with any drug related offenses.

Marine was asked if he could get in touch with Reyes. He stated that his mind was foggy and that he could not recall his number, but he could go to his house in the evening and give him the investigator's telephone number because he only lives five blocks away. He stated that he did not have Reyes' address. Reyes was charged with hindering of an administration [obstruction of governmental administration]. Marine agreed to meet with the investigator in person on a future date. They scheduled an appointment and she said he will retell his story and she would take a statement from him and he would sign a verification noting that what he stated was true. He asked if she would be able to secure photographs of the police officers and she said that she hoped to. He stated that he also had pictures of his own from the emergency room and he would bring those at the time of their meeting. Marine thanked Bratton for returning his call. The interview was concluded.

November 15, 2007 CCRB Interview of Christopher Marine

Marine was interviewed by Bratton of the CCRB on November 15, 2007. The interview took place at his residence. Marine stated that he was 47 years old. He said that on August 3, 2007, at approximately 7 p.m. he was with his friend Reyes walking down Tremont and Walton avenues when it started to rain. He was across the street and because it started to rain hard, he decided to go home and change his clothing. He opened the front door and the next thing he knew, he was accosted and assaulted by two men. He turned around and asked the two men what was going on, while backing up and raising his hands. He said that fists continued to fly and he began to defend himself. He blocked punches and also threw punches. Marine said he punched an officer that was on the right of him, as well as an officer that was to the left of him in front of him. He said the officer to the left of him was more engaged with Reyes. He also stated that the taller officer was the one who was engaged with Reyes. Marine said the fight became more serious. The officers never identified themselves as police officers nor stated why they were being stopped. They just continued throwing punches and he had to defend himself.

Marine stated that he heard his family enter the hallway and were inquiring about what was going on. He stated that he was thrown against a wall, spun around, and then thrown down to the floor where he was handcuffed. As he looked around he saw Reyes being dragged down the stairs. Marine stated that he could not see who handcuffed him but once he was handcuffed, he was snatched up off the ground and thrown out of the front door face first. He said there were a "flood of officers" who picked him up from the floor and were in the area.

Marine described how he was brought down the stairs of the building. He stated

that he was picked up, his feet were to the back and his chest area was facing the sidewalk; he was dragged down the stairs with his head going first and there were several officers on either side of him to his right and to his left holding him at an angle. He stated that once outside, he felt a hand on the back of his head and his face was pushed down to the concrete. He could not see who pushed his head to the concrete because his eyes were closed and he was trying to defend against the blows. He explained that he tried to tense his body so that he could prevent feeling the pain from the blows. He also said he was kicked in the thighs and the calves. An officer also had his knee in his back.

Marine estimated that he was kicked anywhere between six and ten times. He said he was kicked in the thighs, upper thigh, calves and ribs and then transported to the 46 Precinct. He explained that after he was kicked in quick successions, he was picked up by several officers and then placed in the vehicle and transported to the station house. He recalled seeing two black police vehicles, one was a sedan and the other was a mini SUV³. He did not see Reyes once he was outside of the building. He recalls that two officers, one Hispanic and one Black, transported him to the station house. He recalled being taken into the station house, told to sit on the floor in the hallway with his back against the wall and "the big officer" placed his left foot on Marine's left ankle and pressed on it for about ten minutes. Marine said he was not in sight of the desk officer, but he had seen the desk officer when he came into the station house. He recalled screaming out in pain and there were officers in the area. He said he called the officer a "motherfucker" and the officer called him the same. Marine stated that he was searched at the station house. He believes he was given a standard frisk. He explained that he was wearing a t-shirt and shorts and that he had no hiding place for any drugs even though the

³ Sport utility vehicle

big officer kept accusing him of having "stuff" on him. He said he was actually searched prior to the big officer placing his foot on his ankle. Eventually the big officer got off of his foot, picked him up by the handcuffs and threw him against the wall. Marine stated he believes that it was at that point that his nose was broken and he was bleeding from his nose. He said the Black and Hispanic officers then took him out to the car and transported him to Central Hospital where he received medical treatment. After the hospital he was brought back to the station house, processed and held over for two days at the precinct at central booking. Marine said he had a court date around December 1, 2007. He said Reyes also had a court date of December 1, 2007.

Marine explained that he had a sprained left ankle, a bruised left elbow, a broken nose and bumps and bruises throughout his body. He stated that he also had scratches on his face from the concrete in front of his house. He had scars on his forehead and lacerations on the right side of his face. He said he also had numbness in his hands from when the handcuffs were tightened on his wrist in the precinct. He explained that the officers grabbed him by the handcuffs and that tightened them.

Marine said when the incident occurred at his apartment building he was in between the two sets of doors which were open. He stated that Reyes was inside the door on the steps. He estimated that he was struck anywhere between 10 and 12 times in the face, shoulders, chest, ribs and back. He said he was struck by the big officer as well as a shorter officer. And he saw the big officer dragging Reyes down the stairs. Marine said words were exchanged between him and the officers, he was cursing and they were telling him to "shut the F-up." When asked to describe the officers, Marine said the first officer was a white male approximately 6'3" in height, 230 pounds, wearing dark clothes,

dark pants and a dark jacket. He said he was dressed casual. The other officer was also Caucasian and also dressed in dark clothes and dark pants and he was approximately 5'7" in height, approximately 160 or 170 pounds with dark hair. Regarding the two officers that transported him to the station house, he described the Black officer as being 6'0", 200 pounds and the Hispanic officer as being about 5'7" to 5'9" and chubby. He estimated his weight to be about 190 pounds or more. He could not recall if any of the officers had facial hair. He estimated the Caucasian officer he described as the "big guy" to be approximately 40 to 45 years of age and the shorter officer to be in his early 40s. He estimated the Black officer to be in his late 30s to early 40s and the Hispanic officer to be about the same age.

Marine said the Hispanic officer was driving and the Black officer was in the passenger seat. Marine said two days after the incident he left and went to the Orlando Veterans Administration Medical Center in Orlando, Florida. He said he felt he needed to get away from the city for awhile. Prior to that, he had gone to the Bronx Veterans Administration after his immediate release from custody. Marine said he wanted to add that he felt that he was being brutalized and accosted by two men. He did not feel like they were acting like police officers or within their job requirements. He felt that he was getting beat up by two thugs in the street and he did not know why. He said that he had to defend himself in the beginning of the encounter and he hoped for a thorough investigation into this matter. Marine reiterated that he was struck several times in intervals of seconds with a barrage of kicks and punches which lasted approximately ten seconds while outside of the building. He also stated that he was slapped in the back of the head with an open hand while on the sidewalk handcuffed. He estimated that he was

slapped about three times and told to shut up. He stated that he did not see which officer slapped him. He noted that there were civilians on the street, the Pinks family, Steve Pink Sr., Steve Pink Jr. and Tom Pinks. He also noticed that his next door neighbors were outside but they were new neighbors and he did not know their names. He recalled two neighbors from next door being outside. He also recalled that one of the ladies who lived next door saw him on the stoop and she came and told him that she was in her window and saw what happened and that if he needed her to verify what she observed she would be willing to say what she observed. He also noted that his mother was present in the hallway and outside, and several family members were in the hallway and outside on the stoop. Bratton informed Marine that he would have to sign a verification statement and that the interview was concluded.

The Department called Marguerita Samura, Walter Eason, and Debra Mensah as witnesses.

Marguerita Marine Samura

Samura is a Bronx County resident currently out on disability. She stated that she is divorced and has one son whose name is Walter Eason and who resides with her at 1970 Morris Avenue in the Bronx. Samura testified that prior to being on disability, she worked as a home health aide for 15 years. She has been out on disability since 2002. Samura stated that she had never filed a CCRB complaint before being involved in this case.

Prior to being involved in this incident, Samura testified that her feelings towards

the New York City Police Department were as a law and order advocate. She stated that she believed wholeheartedly in the police department and would sometimes get negative feedback from other people because she thought it was her duty to help the police whenever she could. She never had any problems with the police. She said that she was familiar with Marine and he is her nephew. She has known him all his life and currently he is in Elmhurst Hospital. She explained that he was attacked in the Salvation Army shelter in Queens and he was hit in the head with a metal chair. As a result of the incident he is currently mentally and physically incapacitated. She estimated that the incident took place a year ago.

Samura testified that on August 3, 2007, at approximately 10:00 p.m., she was at her residence at 1970 Morris Avenue in the Bronx. She was watching television in her bedroom in the back of her house when she heard a large commotion in the hallway downstairs. She explained that she lives in a three-family brownstone duplex. The first two floors are together and the third floor is a second apartment. She lives on the third floor. Her sister Iverlee, who is Marine's mother, lives downstairs and at the time resided with several of her grandchildren. She said that Marine resided at the residence off and on at that time.

Samura described the commotion as a lot of yelling but she did not know what was taking place. In response to the noise, she went to the door and opened it and looked out into the hallway until Eason, her son, told her to go back inside. She explained that although she looked out, she could not really see what was going on downstairs because of the way the stairs are designed. Samura said she then closed the door and went back inside but at that time she could hear the movement venturing to the front of the house

and so she went to the front window. Samura explained that although she uses a walker and a cane at times, in her house she does not use those apparatuses because her floors are leveled and she does not have carpet. She stated that it took her approximately three to four minutes to get from the front door to the front window. Once she closed her door, Eason went downstairs.

When she looked out of the front window, Samura explained that she saw Marine with his hands cuffed behind him. He was being led out of the hallway by an officer. He and the officer were yelling at each other and then the officer began to strike him. She explained that she could not hear what Marine was saying, but she heard the officer yelling, "I'm going to fuck him up. I'm going to fuck him up." She said he repeated himself and she was able to hear him clearly.

Samura described the evening as raining and drizzling. She stated that it was not cold but the streets were wet. She said it was not dark and it was just a rainy evening. She stated that there are street lights on the block. There is one on the corner and another one directly across from the house and there is also light on the apartment building which is on the corner of Tremont and Morris avenues. She said the lights illuminated the area where Marine and the officer were standing. Samura was shown a series of photographs (DX 4A-4F). She explained some photographs depicted her house (DX 4A, 4B, 4E, 4F). She said that two photographs depict the area opposite her house (DX 4C and 4D). One photograph depicts the street light diagonally across from her house (DX 4D). She stated that another photograph also depicts the lighting conditions that she spoke about (DX 4C). The street lights were functioning on the incident date. Samura said one of the pictures depicted her window that she looked out of to observe the incident (DX 4E).

Samura testified that she opened her window and poked her head out to observe what was going on downstairs. She placed initials on the photograph to depict where she was looking at from the window onto the street that evening. She stated that there was nothing blocking her view of the events as they were transpiring. She also stated there were no cars blocking her view of what was going on. Samura said that there were a lot of people outside looking at what was going on but she could not recall who they were because her concentration was on what was happening to her nephew. She said her attention was drawn to her nephew because the officer was repeatedly slapping him.

She said the officer drew his hand back and slapped her nephew. She explained that they were stepping down from the stoop and were on the sidewalk. The officer was yelling as he repeated, "I'm going to fuck him up," over and over again. Samura stated that she did not see Marine take any physical action toward the police officers at that time. She said only one officer walked him out of the house and toward the street. Samura looked around the courtroom and stated that she could not recognize the officer because from her vantage point, she could not see his face.

Samura stated that Marine was walked out to a double parked car. She explained that there were two cars parked at the curb with approximately a half a car length in between them; and the double parked car was parked between those two cars. Marine was leaning against the double parked cars with his hands behind his back when the officer slapped him again. She said the amount of force used must have been hard because Marine slid down the double parked cars. She said it was an open hand face slap and he slid down towards the ground. She said as Marine lay on the ground the officer kept making repeating blows towards him on the ground but she could not tell what part

of his body he was making contact with. She explained that she did not want to stick further out of the window because there was no railing. Samura stated that when Marine was first brought out of the house, she noticed that something was wrong with his nose because it was bleeding and she noted that the slap did not cause the bleeding to his nose. She stated that she could not hear anything else that the officer was saying because she was yelling at the time, "Why are you hitting him? He can't do anything." Samura said she did not see any other officer strike or kick Marine. Samura said she saw the officer kick him several times, pick him up and throw him in the back of the double parked car which she assumed was a police car, and then close the door and they were gone. She could only describe the double parked car as an SUV with no markings and that it was a dark color.

During cross-examination, Samura acknowledged that it was drizzling on the incident night. She stated that she did not recall it pouring down rain at that time. She acknowledged that as she stuck her head out of the window she was getting wet and her upper body was out as far it could go out. She explained that she was leaning out of the window and that her shoulders were out as well as her head. She said she stayed out as long as the incident lasted and she was getting wet. Samura stated that she did not know what Marine had been doing to get stopped by the police. She said she learned later on where he had come from. She explained that he was not engaged in any illegal activity which caused him to be stopped by the police. She acknowledged that it was believed that the police accosted him for no reason.

Samura acknowledged that she does not have a charitable view of the members of the 46 Precinct. She explained that the officers are overbearing, rude and sometimes

disrespectful. She said that she had no idea where the officers who stopped Marine were from. She explained that she did not form an opinion as to where the officers came from. She stated that some of the officers from the 46 Precinct are rude and overbearing, but there are others that are very decent. She agreed that the 46 Precinct is an insult to law enforcement. She reiterated that it took her approximately three to four minutes to get from the apartment door to the window where she observed the incident. Samura stated that she does not know whether Marine has any criminal convictions.

Samura acknowledged that she had been told that the officer that stopped Marine had a "personal beef" with him. She could not recall who told her that information but she remembers it coming out in conversation with someone. When asked if there were two double parked cars, Samura reiterated that there were two legally parked cars and one double parked car in the space between the two legally parked cars. She noted that she could clearly see the incident up until the point that Marine slid down to the ground. She acknowledged that his back was against the car and his front was toward her.

Samura acknowledged that based on her viewpoint, she could not see Marine's legs. She also acknowledged that she did not know whether the officer was kicking Marine in his groin area. She stated that she was not sure where he was getting kicked. Samura recalled that she did have a telephone conversation with Bratton from the CCRB on August 23, 2007. She was asked whether she recalled from that conversation Line 10, Page 10: **Question:** Where was the officer kicking him?

Answer: From what I can see it was his stomach and his groin.

Samura was asked whether she recalled giving that answer and she stated that she did not recall, but if that is what is written, she must have stated that. She explained that she did

not recall making that statement today but the incident did occur two years ago. She said that her memory today is that part of her view was blocked by the officer's body as he was standing over Marine. Samura acknowledged that she saw Marine being slapped as he was on the ground. She explained that it was difficult for her to see Marine's face based on his proximity to the truck door, but she did see the officer's hands going up and down [indicating an open hand]. She agreed that the officer was a Caucasian male. She stated that she noted Marine's nose was bleeding, but she did not notice his eyes.

Samura testified that she has a good relationship with Marine and his mother. She stated that she knows who the other witness is from the neighborhood but she never had conversation with her. She also stated that she does not know whether the witness is a friend of Marine's mother. When asked whether she heard the statement, "I'm going to fuck him up," before she got to the window, Samura explained that she could not hear the statement before she got to the window. She explained that she heard the statement once at the window when the officer was leading Marine from the pavement to the car. She explained that her window was closed at the time she approached it to look out. She admitted that it was the same officer who made the statement who was also the officer who was physically aggressive toward Marine.

During re-direct examination, Samura acknowledged that she estimated the time to be three to four minutes for her to get from the door to the window. She admitted that she did not time herself. She also stated that she did not recall whether the officer committing the violence against Marine was wearing anything on his head. She did recall that he did have hair and that he was not bald.

During questioning by the Court, Samura stated Marine is mentally and physically

incapacitated. She explained that he had several operations on his head and that at one point he had a plate placed in his head. She stated that she believed the plate was removed and that he was just beginning to speak and communicate verbally. She also stated that as far as walking, he was still not able to ambulate on his own. She stated that she has not gone to see her nephew because she would get emotional and she understood that the whole side of his head was caved in. She stated that her other nephews told her that they did not think she could handle it and that she should not go to see him. She admitted that this injury to her nephew was a result of being injured by a chair.

Samura stated that at no point did she see her nephew resisting the officers. She stated that she did not see her nephew fighting while he was handcuffed but that she did see him pulling. She explained that he was not going easily. She also noted that there were several police officers on the street but none of them had contact with her nephew other than the one officer she had described. Samura described her house as being the second private house from the corner closer to Tremont Avenue.

Walter Eason

Eason is 29 years old and resides in Bronx County. Prior to being laid off, he worked as a laborer at Hunts Point. He denied ever filing a CCRB complaint. He stated that he lived with his mother, Samura. He stated that he is familiar with Marine because he is his cousin. He stated that he has known him his whole life and that he is currently incapacitated. On August 3, 2007, Eason stated that he was living at 1970 Morris Avenue. He explained that on that day, approximately 15 to 20 minutes before the incident, he had just come home from his sister's house. He was in his house talking to

his mother when he heard a loud commotion downstairs. He described the commotion as arguing, yelling and bumping. Eason said he decided to go downstairs.

When he got downstairs he saw a lot of people in the hallway vestibule area. People were on the floor with cops, he saw his cousin and he also saw his aunt down there; a lot of people were in the vestibule area. He was shown a photograph and he described it as the vestibule area (DX 4F). He said he observed four people in the area, Marine and the rest were police officers. Eason said he was in the area which was a little space between the inside door, which was opened, and the steps. He explained that his apartment was on the third floor. He made his observations as he was coming down the steps and that the vestibule is on the first floor.

Eason said that as he stood in the area between the steps and the door he saw the officers trying to handcuff Marine. He explained that he did not actually see Marine get handcuffed because he was lying on the ground face down and there were a lot of people around him. He did not recall where Marine's hands were. He also stated that at that time he did not see the officers striking or beating Marine. He did say he observed a lot of people and everybody was moving around. Eason saw his aunt yelling at the officers telling them to get off of her son and she was also telling her son to calm down and telling the officers to calm down. He also observed Marine trying to get the officers off of him as they were trying to restrain him. Eason said he too interacted with the police because he was yelling profanity asking what was going on and one of the cops was holding him back and telling him to go back upstairs.

Eason testified that he was familiar with Reyes. He said that he was there that evening but he was not paying attention to him. He could not recall what he had

observed involving Reyes. His attention was drawn to his cousin. Eason said the first time he observed Marine in handcuffs was outside. He stated that the officer who told him to go back upstairs was an older police officer who did not have contact with Marine. He said his aunt encouraged him to go back upstairs so that he would not have trouble with the police.

As Marine was being walked to the car, Eason said it was not "an easy walk." He explained that Marine was wrestling, that he was being defiant. He said he did not see Marine kick or hit any of the police officers, nor did he see any of the police officers hit or kick Marine in the vestibule. He did recall hearing one officer say, "I'm going to fuck you up." He stated it in a loud tone and everybody heard it and it was stated more than once. Eason looked around the court room and identified the Respondent as the officer who said, "I'm going to fuck him up." He explained that it looked like him and that he had not seen him in two years since the incident. He further explained that he observed what was going on outside with one foot in the vestibule and one foot outside. It was raining and at some point during the night it was raining hard. Eason said there is a street light that is located across the street that shines directly on his home.

As they were walking to the car, Marine was using profanity and so was the police officer. Eason observed a cut above the bridge of Marine's nose and he also had blood on his face. He noted that Marine's nose was also bleeding. As they proceeded to the car the officer continued to strike Marine in the back of his head and his neck as if to push him along. Once they got to the car he observed the officer, who he identified as the Respondent, slap Marine with an open hand slap. He stated that Marine was not hit with a punch or a closed fist but an open hand slap which caused him to go straight down to

the ground. Eason stated that he had a clear view of what was transpiring from his position on the stoop. He stated that Marine's face was toward him and the officer's back was toward him. He said Marine was in handcuffs and unable to defend himself. He said Marine had to be hit with force because he is a strong man at 6'1" and to bring him down to the ground it had to be really aggressive. Eason said he heard the officer state that Marine would not get in the car and that he spit at him.

Eason testified that eventually he left and went back upstairs to his mother. He asked her to make a phone call. He wanted a sergeant from the 46 Precinct to come over. He stated that he did not like the set of officers that were already at the scene. Eason testified that the entire time he was downstairs he only saw one police officer striking Marine and that was the Respondent. He stated that he did not see Marine spit at any of the officers. He said that at some point he realized Marine was being transported so he got his umbrella and walked to the 46 Precinct station house. When he arrived he spoke to a woman. He informed her that two people had been arrested and taken there and she informed him that two people were not brought to the precinct and she sent him outside. Eason said he saw the officer who had restrained him. That officer informed him that he was in charge and he told Eason that is what he gets "for wrestling with the police." He also told Eason, "He tried to resist arrest, so got his nose scuffed up or scratched up...my guy also got his nose scuffed up too."

Eason said that he also spoke to an African-American officer who was at the scene the entire time and never intervened. He asked him why he did not involve himself in the matter and the officer told him that that was his interpretation of what had occurred. Eason said he followed the officer to his vehicle and continued to tell him that

he should have gotten involved and what if that was his son. The officer continued to state that he did not know that what was going to happen, that it is Eason's claim and he did not see any of what Eason was describing.

During cross-examination, Eason stated that when he went up to the apartment, his mother was inside. He said that she was in the living room which faces the street. He was asked where his mother was when he was downstairs observing the incident and he said he heard his mother yelling from the apartment window. He acknowledged that it was raining hard at different points during the night. He could not recall whether it was raining hard at the time Marine was being taken outside. Eason acknowledged that he was interviewed by CCRB on November 15, 2007. He was read a portion of his statement which said that it "was raining like crazy." When Eason was confronted with this statement he acknowledged making the statement and said that it rained hard, slowed down and rained hard again pretty much throughout the night.

Eason recalled the interaction as the Respondent having interaction with Marine one-on-one and Marine was resisting. He said that eventually Marine was subdued once he went down and he had to be helped into the car. Eason was asked whether he had a vision impairment. He stated that he does not have a vision impairment and that he sees perfectly, he just has left eye dominance. Eason was asked whether he recalled previously stating that the officer involved had a baseball cap on. He stated that he recalled stating that and that most of the officers on the scene had on baseball caps. He stated that during his testimony he did state that he thinks the Respondent is the officer that was involved; as he continued to testify and looked at the Respondent, his memory was refreshed and that the Respondent is, in fact, the officer who had the altercation with

Marine. Eason stated that as the Respondent and Marine moved from the stoop to the car, he remained at the top of the stairs. He stated that he did yell out loudly but none of the officers got involved with him (Eason). He said he observed more than one police car on the scene. He stated that one car that was parked was not parked straight but was parked at an angle and he believed that that was a police car. He also noted that another car was double parked next to it and he believed that was a police car also. He acknowledged that Marine was placed in the double parked car. Eason noted that there were other officers on the scene, but only one officer took Marine to the car.

During re-direct examination, Eason was asked what he did once Marine was hit. He stated that he could not believe what he had observed and he began yelling. He stated that he spoke to his aunt and he also yelled out to the officers about whether they saw what just took place. He was not focused on what was happening following Marine being struck in the face.

Debra Mensah

Mensah is a 54-year old divorced woman who is the mother of three children aged 32, 23 and 20. She stated that she is currently disabled and resides in Bronx County. Prior to her disability she worked in accounting for approximately 15 years. She stated that her disability does not affect her ability to remember things or think clearly. She does take medication as a result of her disability. She said she has never been convicted of a crime or been involved in a complaint against a police officer aside from this incident. She currently lives in the Burnside area of the Bronx where she has resided for approximately one year but prior to that she lived on Morris Avenue in the Bronx at 1978

Morris Avenue.⁴

On August 3, 2007, Mensah testified that she was at her apartment on Morris Avenue which is next door to 1970 Morris Avenue. She said that she heard someone repeating, "I'm going to fuck you up. I'm going to fuck you up," outside of her window. She initially thought it was kids acting up again. But the words were coming directly from below her apartment window. She started to think it was not kids because the language became stronger, more violent and more threatening so she went to her window. She explained that she was in her apartment with her cousin and her boyfriend. She was the only one who went to the window. It took her less than a minute to get to the window because it is only a couple of steps from her bed to the window. She further explained that this was the front room of the apartment and the window was in the front of the house. Mensah acknowledged that she used a cane to assist her in walking in the court room, but she stated that she does not use a cane inside of her apartment. She said that she resides in a three-floor house and that she lives on the second floor and that the street level is on the first floor. She noted that as she looked out of the window, it was drizzling and that it was not raining very hard. She also stated that there was nothing blocking her vision at that time.

Mensah stated that there was nothing obstructing her view such as trees. She stated that the lighting conditions were very good because Tremont Avenue is a main thruway. She said it was well lit and buses ran through it. She said in relation to her building, there is one street light on the corner and there is also one across the street and the area is well lit. She stated that she was familiar with Marine but that on August 3,

⁴ Initially Mensah stated she lived at 1978 Morris Avenue. She corrected herself after prompting from her daughter that she lived at 1968 Morris Avenue.

2007, she did not have a relationship with him. She stated that he was a neighbor of hers and that there is no family relation. She explained that she would say, "Good morning" to him and he would say, "Good morning" to her but she did not know his name on the incident date. She also stated that she was not close with his family. She did acknowledge that she was aware that Marine lived next door to her. She testified that she did not speak to Marine or any of his family members about the incident that took place on August 3, 2007. When Mensah looked out of her window she saw a police officer taking Marine by his shirt and putting him against a police van which was parked in front of her window.

When asked to describe the vehicle, Mensah stated that she was not sure whether the vehicle had lights on top of it or whether it was marked with "NYPD" on the side. She observed Marine handcuffed and an officer leading him by the shirt, walking him to the van and placing him against the van. Marine was then facing her as she looked out of her window. She heard the officer state that he was going to "fuck him up." She described the officer's tone as loud and angry. She noted that one officer was taking Marine to the van but that there were two or three other officers following behind. Mensah stated that Marine's face was bleeding and she saw blood on the right side of his face near his eye. She noted that his face was a "mess." She explained that this transpired prior to him getting to the van. She noted that Marine was not saying anything and that he was not fighting with the police. She did not see him kick or lunge at the officers at any time. She did not see him spit at the police officers.

Mensah described the officer as white, not very tall with sandy brown hair and a stocky built. Mensah looked around the courtroom and said she was not sure but she saw

a person who looked like the officer who was walking with Marine (indicating the Respondent). Mensah testified that once they got to the van the officer turned to the other officers and said, "I'm telling you, I'm gonna fuck him up." He then hit Marine. Mensah described a raised hand above her shoulder in a sideward motion with her right hand across her body, striking Marine in the face. She stated that there were other officers close but they were not as close as the officer who struck Marine. She said that once Marine was struck he went down. She acknowledged that at the time Marine was struck, he was still in handcuffs, he was not fighting with the police officers, he was not kicking or spitting at them. She could not discern whether the blow that hit Marine was an open hand or closed fist. She said that Marine slumped down and ended up between the parked cars that were at the sidewalk and the van. This occurred in front of her front window. She noted that the officers gathered around Marine and after that, she saw them put him in the car. She explained from the angle that she was looking down; she could not see what was happening between the two cars once he hit the ground. She could not see over the car to see what was going on between the van and the parked car.

When asked how many times she saw Marine hit, Mensah stated, "once." She denied seeing Marine either strike or lunge at any of the police officers, and she also denied seeing any of the other police officers strike or hit Marine. She did not see any of the other police officers strike or hit anybody else. She said that the officers picked Marine up and threw him into the van. Mensah was shown a photograph (DX 4A) and she indicated by placing her initials where she was viewing this incident from the second floor window. She also noted with a blue marker where she saw Marine in the street during the incident. She indicated that the photograph depicted where she lived.

The Respondent's Case

The Respondent called Detectives Daniel Howell, Irie Humphrey, and the Respondent testified on his own behalf.

Detective Daniel Howell

Howell is an almost 11-year member of the Department currently assigned to the Narcotics Borough Bronx command. He testified that he has been assigned to Bronx Narcotics for the past four years. He stated that on August 3, 2007, he was assigned to Bronx Narcotics working in the 46 Precinct module and he was working with the Respondent. He acknowledged that on August 3, 2007, he was approximately 6'2" and 245 pounds with a bald head as he has today. He also stated that he is of Hispanic descent.

On August 3, 2007, Howell testified that he was working a buy and bust operation assigned to the chase car. He explained that he was in the chase car with Humphrey and the Respondent was assigned as the arresting officer. At some point they wound up at 1970 Morris Avenue. He explained that his set was in the vicinity of 1970 Morris Avenue. He further explained that he got involved in the arrest of Marine because he had to enter that building after being called to the scene. He observed the Respondent and another officer, Clark, running into the building and he followed after them. He also recalled hearing some information over the radio but he could not recall what that was. Howell explained that Clark has since retired from the Department. He described him as in his 40s with brown hair and he usually wore boots, a t-shirt, sweater and a baseball cap. He explained that the team pretty much dressed in regular clothes and everyone

wore a baseball cap. He said in comparison to the Respondent, Clark is approximately the same height but Clark was slightly heavier than the Respondent.

Howell testified that he followed Clark and the Respondent into the building, but only got as far as the vestibule which is right past the entry. He noted that Clark was dealing with someone but he could not see who it was. He saw that the Respondent was trying to apprehend someone who was later identified as Marine. Howell explained that he learned later on that Marine had punched the Respondent in the face. At the time that he observed him, Marine was pulling his hand back as he was about to hit the Respondent. Howell stated that he then punched Marine. He further explained that he punched Marine to prevent him from striking the Respondent. Marine went down, he was placed on the ground and handcuffed, but Howell could not recall who handcuffed him. Marine was then placed under arrest. Howell said there was a lot of screaming and activity going on in the vestibule but he was not focused on that activity, he was participating in this arrest. Howell stated that he believed he participated in bringing Marine out of the vestibule. He also noted that Humphrey was somewhere in the area and that Marine was then placed inside of a vehicle.

When asked to describe Marine's demeanor, Howell stated that he was very upset with being placed under arrest. He explained that he was moving around back and forth but he was not attempting to run away, he was just being uncooperative. He could not recall any problems with placing Marine into the vehicle. He said they did not have a prisoner van and that their unit uses regular vehicles. As Marine was being transported to the station house, Howell stated that he was bleeding from the face area and he recalled thinking he did not want him to spit on him. He explained that later on he learned from

the Respondent that Marine had spit on him, but it was not something that he witnessed.

During cross-examination, Howell acknowledged that 1970 Morris Avenue was not the focus of the narcotics investigation on that day. He admitted that the team was doing buy and bust operations in the street. Howell stated that immediately upon seeing Clark and the Respondent enter the building he chased quickly behind them. He observed Clark having some type of contact with people. He denied ever seeing Clark fighting with anyone or punching anyone at that time. He noted that Clark was beyond the area where he and the Respondent were. He believed Clark was in the hallway of the building. After reviewing a photograph (DX 4), Howell acknowledged that Clark was beyond the two doors to the building.

Howell acknowledged that he punched Marine in the face and it was likely in the nose. He stated that he was able to be brought down to the ground and although he struggled a little bit they were able to handcuff him. He denied either he or the Respondent struck Marine after that first blow. It was very likely that when Marine was brought down to the ground his face struck the ground. He explained that his back was facing him so he could not actually see the impact. When asked whether the concern about getting blood on him factored into whether he would hold Marine as he walked him out to the car, Howell responded, "Well, I don't want to get blood on me, so yeah." When asked what that meant, he responded, "I probably wasn't holding him." Howell stated that it was very likely that he was not holding Marine as he was walked out of the apartment building. Although he acknowledged that Humphrey was in the vicinity, he noted that Humphrey did not walk Marine out of the apartment building. Howell stated that once Marine was handcuffed, he was quickly taken out of the building and into the

car. He was not held in the hallway of the building while handcuffed.

Marine was placed in the vehicle that he (Howell) came in. He noted that his vehicle was double parked, that Humphrey was the operator of the vehicle, and Clark and the Respondent were in a separate vehicle. Howell stated that he did not observe Marine spit on the Respondent as he was being walked to the vehicle. He did note that he observed Marine being walked to the vehicle. Howell denied ever hearing Marine threaten the Respondent as he was being walked to the vehicle. Howell admitted that another person was placed under arrest named Reyes, but he did not pay attention to that arrest. Howell denied ever seeing Reyes interfere with the arrest of Marine or interfere with the Respondent. Howell acknowledged that he never even saw Reyes. He had no idea how he was transported to the station house. When asked whether he heard anyone say, "I'm going to fuck him up," Howell stated, "I don't recall." He denied hearing any police officers use profanity during this incident. When asked to describe the Respondent's state of mind, he stated that the Respondent was "agitated." He said that he did not vocalize his agitation in any way but he had just gotten hit in the face and he would expect that anybody would be upset about that. He explained that the look on the Respondent's face showed that he was agitated. Howell denied that the Respondent took any physical action to show his agitation such as stomping his feet or waving his hands.

With respect to getting Marine into the vehicle, Howell stated that he was pushed in and that was it. He stated that there was no struggle getting him into the car. Howell stated that he made an Activity Log entry with regard to this incident. When asked what the entry stated, Howell explained, "I just put down 'see Detective Schaffer's book.'" Howell stated that Humphrey was in the front seat driving, and he sat in the back with

Marine and they proceeded to the 46 Precinct. He stated that there was no further investigation regarding drug activity at that point. He denied doing any searches. Prior to leaving, he stated that no other members from his buy and bust team came to the incident location. He denied hearing any radio transmissions about anyone coming to the incident. Howell stated that he was sure a confirmatory identification of Marine was done. He said that he did not observe it, but once Clark said to put Marine in the car and take him away, he assumed an identification had taken place.

During re-direct examination, Howell stated that he could not say for certain who placed Marine in the vehicle other than it was not him.

During further cross-examination, Howell acknowledged that Clark did not put Marine in the vehicle.

During questioning by the Court, Howell stated that at no point did he see the Respondent strike Marine.

Detective Irie Humphrey

Humphrey is an eight-year member of the Department currently assigned to Narcotics Borough Bronx. He has been assigned to Bronx Narcotics for the past three years. He explained that he is currently assigned to an administrative module but back in 2007 he was assigned to the 46 Precinct module. He acknowledged that he is 6'5" in height and 250 pounds and he is African-American. He admitted that Clark was his supervisor in 2007 and that he was white. He estimated that Clark was approximately 6'1" in height and between 200 and 210 pounds. He said his hair color was dark brown. He noted that when they did buy and bust operations, Clark would wear baggy clothes,

boots, jeans, a sweater and a hat. He described the hat as a worn out baseball cap.

Humphrey testified that on August 3, 2007, he was assigned to the 46 Precinct module and that he was working a buy and bust operation. He was working with Howell and their specific assignment was to be the chase car. He acknowledged that the Respondent was the arresting officer for the day. Humphrey testified that they were conducting a buy and bust operation with undercovers in the vicinity of 1970 Morris Avenue trying to make a drug buy. He explained that while he was in his car parked waiting for the drug buy to take place, he was monitoring the radio when he heard on the point-to-point radio that someone was running. At that point he became alert to see what was going on. He stated that he was turning onto Tremont Avenue when he saw the Respondent's car coming northbound from Tremont Avenue onto Morris Avenue. He said he proceeded to go eastbound on Tremont Avenue and make a left turn onto Morris Avenue proceeding north. As he proceeded up the block he saw the Respondent and Clark leave their vehicle. He made a left turn heading north and as he was turning, Howell jumped out of the car. Humphrey stated that he proceeded to close the door and try to park the car so not to impede traffic.

Humphrey explained since it was pouring rain and three officers had already ran out he was not going to proceed in but as he parked the car he saw wrestling in the vestibule area so he turned the car off and ran up the stairs. He explained that it was pouring rain at the time and dark. Once he got up the stairs he could see shadow figures but he saw Howell wrestling with someone who he later learned was Marine. He went past Howell and saw the Respondent wrestling with the same person. A little bit further into the vestibule he saw Clark screaming, "you hit me you hit me" and he was trying to

grab another person, who later turned out to be Reyes. Since two officers were on Marine, he decided to help Clark.

Humphrey stated that as he tried to help Clark he observed two old ladies in nightgowns and he instructed them to go back upstairs and let them handle their job. He proceeded to help Clark, who was being pulled by the man he was trying to arrest.

Eventually Reyes was pulled down to his stomach. Humphrey pulled out his handcuffs and attempted to grab him and place him in handcuffs but Reyes was pretty muscular and they were having a hard time with him despite the fact that he (Humphrey) is pretty big himself. As he was trying to handcuff Reyes he began to choke and realized that someone sprayed Mace. He said he knew what Mace felt like and he began to choke and was having a hard time breathing. In addition, his eyes started to burn and he became disorientated for a while.

Humphrey stated that he never let go of Reyes because he was trying to place him in handcuffs. Eventually, he was able to get the handcuffs on him and Reyes stopped struggling. Humphrey proceeded to pick Reyes up and Clark told him to take him out to the car, which he did. Humphrey stated that he did observe the two old ladies but he did not look back to see if anyone else was in the area. He noted that Marine, the Respondent and Howell were still in the area, though. He acknowledged that he led Reyes out by himself. He placed Reyes in the car and he wanted to get out of there but at the same time he observes the Respondent with Marine trying to get him in the car. Once he placed Reyes in the car, he went to help the Respondent place Marine in the car.

Humphrey testified that Marine and the Respondent were arguing with each other and Marine was cursing. Just as he got close to Marine, Marine spit on the Respondent.

Humphrey saw the Respondent dodge to avoid getting spit on. Humphrey grabbed Marine and tried to push him into the car but Marine stiffened his body and was resisting. He eventually applied more force and told Marine to sit down and pushed him into the car. He told Marine to swing his legs into the car but Marine continued to argue so he lifted Marine's feet and swung them into the car and closed the door. He explained that he was hoping to get out of the area quickly before someone started throwing objects off of the roof. He had no idea whether Marine's spit actually hit the Respondent. He noted that Marine had blood on his face but he did not know if he had blood in his mouth. Humphrey acknowledged that at that point he was between the Respondent and Marine and he stated that at no point did he see the Respondent punch Marine or slap Marine in the head. Once in the car, he drove the car and Howell was also in the vehicle. Humphrey stated that he tried to calm Marine down and avoid getting spit on. He said as they rode to the precinct, Marine continued to curse and said he would "take everyone down." When he arrived at the station house he recalled seeing a supervisor take a look at Marine and said he had to be taken to the hospital. Humphrey said that Clark had not arrived to the station house at that point.

Humphrey testified that he took Marine into the station house in front of the desk and that Marine was bleeding a lot at that moment. He stated that he had blood on his shirt. He said that Clark took a long time to get to the station house but that he remembered taking Marine out to an ambulance. He said Humphrey got into the ambulance to ride with Marine and he was going to follow behind in his vehicle. Humphrey stated that when he placed Marine in the car he had no idea where Clark was at that time.

During cross-examination, Humphrey denied hearing any description over the air of a perpetrator. He denied ever seeing Marine running at any point. He did observe the Respondent and Clark run into the building. Humphrey stated that he was operating a Ford Escape on the incident date. He described it as an SUV-type of vehicle, silver or grey in color. He denied ever seeing any blood being spat onto the Respondent. He did not recall seeing any blood on the Respondent and he stated that no blood got on him. He acknowledged that if a perpetrator spits blood on someone it is a big deal. He stated that it is a very dangerous situation. He was asked if a perpetrator spits blood whether it would be documented in police reports because it is a possibility that the perpetrator has HIV or AIDS. Humphrey stated that paper work would probably be done but he was not sure. He did acknowledge that it would probably be written in someone's Activity Log.

When asked whether he was the person who helped the Respondent place Marine in the vehicle, Humphrey stated that the Respondent was the person that he saw with Marine when he got to him. Once Marine spit, he grabbed Marine and pushed him towards the car and tried to push him into the seat to get him in. He explained that somebody was helping him but he was not sure of who he was because he did not turn around to observe. Humphrey denied ever seeing Marine fall to the ground.

After Marine spit, Humphrey stated that the Respondent did a "matrix move" to try to dodge the spit. When asked whether the Respondent lost his "cool" at that point, Humphrey replied, "I don't recall." He was asked whether the Respondent got angry but he stated that he had his complete attention on Marine and wanted to get out of the area. He said he could not recall whether the Respondent got agitated or upset by getting spit on. He denied seeing the Respondent retaliate after getting spit on. He denied hearing

the old ladies use profanity towards the police officers.

Once Reyes was taken out of the building, Humphrey acknowledged that he did not see anybody else come downstairs or interact with anyone in the hallway. He did not observe Reyes interacting with the Respondent that night, and he did not see Reyes interact with Howell either. He denied either seeing Reyes fighting with Howell or the Respondent. He stated that the Respondent and Howell were in the front of the vestibule and Clark was towards the back of the vestibule. Humphrey recalled that he was parked right in front of the building because he backed up in a manner to see into the vestibule of the building. He said he placed Marine in the rear right passenger seat. After placing Marine in the vehicle, Humphrey denied taking any investigative actions towards the narcotics related activities. He did not recall any other members of his field team coming to the scene at that point. He explained that once Marine was in the vehicle he had no recollections of hearing any radio transmissions at that point.

During questioning by the Court, Humphrey stated that the field team had a particular way of dressing, but the Respondent never wore a baseball cap. He explained that he always had his hair in place with gel. Humphrey acknowledged hearing Clark say he was hit. But he did not see Clark strike Reyes. He explained that Clark seemed more comfortable when he arrived and he took control of the situation.

The Respondent

The Respondent is an almost 12-year member of the Department, currently assigned to Narcotics Borough Bronx. He testified that he has been assigned to Bronx Narcotics for approximately five years. Prior to that he worked patrol in the 40 Precinct.

He acknowledged that he spent approximately six years on patrol and five years in narcotics. He stated that when he came to narcotics he was assigned as an investigator. He estimated that he has made “hundreds” of arrests. Aside from this matter, he has never been the subject of a substantiated excessive force claim by the CCRB. He also stated that he has not been on any disciplinary monitoring.

The Respondent testified that Clark had been his supervisor in narcotics for approximately one year. He estimated that Clark was approximately his same height which is 5’11”. He stated that he is 190 to 200 pounds and that Clark might be slightly heavier. He stated that Clark is in his 40s and he, himself, is age 43. He stated that Clark has brown, salt and pepper hair. He also said they were approximately the same build. Schaffer said that when he went out to do buy and bust operations he wore jeans and a shirt. He stated that Clark always wore a baseball cap. On August 3, 2007, the Respondent stated that he did could not recall what he wore on that day. He believed that he wore a “hoodie⁵” since it was raining but he did not recall what color it was.

On the incident date, the Respondent stated that his field team set up a buy and bust operation in the vicinity of 1970 Morris Avenue. That location was not the intended place for the buy and bust operation. To his knowledge there were no arrests made at that location prior to the incident date that was related to drugs. They were doing a buy and bust operation with the other undercovers when a description came over the radio of someone fitting Marine’s description. Someone then screamed over the radio, “he’s running, he’s running.” The Respondent stated that that was when he first saw a man fitting Marine’s description running toward Morris Avenue. The man came from the direction of the undercover’s location. The Respondent stated that there was no

⁵ Hoodie is another term for hooded sweatshirt.

confirmation made of the individual at that time. The Respondent said he saw Marine running and Clark jumped out of their car and began running after him. Marine ran into the vestibule at 1970 Morris Avenue and they followed behind.

Once in the vestibule, a struggle ensued. Marine punched the Respondent with a closed fist in the left eye. The Respondent said he tried to grab his hand to stop him but the next thing he knew they were on the floor. He explained that they were fighting up front when he was hit in the face. They fell backwards into a wall and they ended up falling forward onto the ground. Marine fell forward on his face and stomach hitting the ground. The Respondent then grabbed the back of his hand and he could not recall who actually handcuffed Marine. He recalled that he, Clark, Howell, and Reyes were present. He did not know who had control of Reyes because he was focused on Marine. The Respondent said that he picked Marine up off of the ground and walked him to one of the vehicles. He stated that while still in the vestibule, he noticed that Marine was bleeding from his face. As he walked him to the vehicle, he noted that Marine was not fighting or kicking but he was fidgeting. He believed he took him out to the Ford Escape vehicle. The Respondent said that at that time it was heavily pouring rain. He described the lighting conditions as dark and raining and hard to see with the rain. He stated that he does not remember any street lights.

The Respondent testified that as he walked Marine to the vehicle, Marine spun around with his back to the car and stated, "I'm going to fuck you up," to which he spit blood at him. The Respondent said the blood made contact with him. He initially thought the spit landed on his face but it ended up hitting him on the shoulder even though he dodged as Marine spit. As he began to search his face to see where the spit

landed, he observed Humphrey placing Marine in the vehicle. The Respondent stated that inside the vestibule he may have punched Marine but outside of the building he, at no point, hit Marine. He denied hitting Marine at any time after he was handcuffed. Once Marine was in the vehicle, the Respondent stated that he went with Clark to their vehicle, where Reyes had been placed, and he transported Reyes. The next time he saw Marine was at the station house. He stated that he walked past him to go do his paperwork, but he had not further interaction with him. The Respondent denied ever saying to Marine, "I am going to fuck him up," or saying that phrase to anyone else in reference to Marine. When asked if he heard that phrase, he said, "I have no idea. I didn't hear it." Upon further prompting the Respondent stated, "he stated to me take these handcuffs off or I'm going to fuck you up."

As part of his CCRB interview, the investigator asked the Respondent for his Activity Log. The Respondent stated that he forgot his Activity Log on the day that he went to CCRB and told the investigator that he would fax it to her. He stated that he did fax it. He explained that his Activity Log had two arrests at 1970 Morris Avenue. He said that his Activity Log was never lost or stolen and that it was always in his possession. He stated that as he received training in the Police Academy in the first six months of his career as to how to prepare his Activity Log, he was trained by an instructor that he was to put the time, date, what he did on the date in question and his arrest locations. He stated that his entry in his Activity Log for August 3, 2007 did conform to the training he received in the Police Academy.

During cross-examination, the Respondent acknowledged that he did not hear any officer utter profanity on the incident date.

The Respondent was shown a copy of his Activity Log (DX 5). He acknowledged that after chasing Marine into the private residence, he used force against him. He acknowledged that Marine used force against him also. He also acknowledged that both he and Marine were treated at a local Bronx hospital. The Respondent acknowledged that his Activity Log read that he made two arrests in front of 1970 Morris Avenue but that his Activity Log did not mention that he went inside the residence. He acknowledged that he made no reference to using force in his Activity Log. He also acknowledged that he did not document the fact that blood was spit at him in his Activity Log. The Respondent stated that he did not recall according to the Patrol Guide it was his duty to indicate in his Activity Log what arrest paper work was completed. He acknowledged that a medical treatment form was likely completed with respect to Marine. After review of the Patrol Guide dated June 12, 2009, the Respondent acknowledged that it was his duty to note in his Activity Log the Department forms that were completed in reference to his arrest.

The Respondent stated that the allegation against the person who had contact with the undercover was that he had received pre-recorded buy money and took off running. He explained that the undercover gave money to the person, the person left and came back and then took off running. When asked what the physical description was given by the undercover of the person, the Respondent stated that he could not recall. The Respondent was shown a copy of the buy report to refresh his recollection and he noted that the undercover's description was of a person wearing a "white shirt and blue jeans." When asked what Marine was wearing that night, the Respondent stated that he could not recall. The Respondent was shown a NYSID sheet containing the arrest photograph of

Marine. When asked whether the arrest photograph refreshes the Respondent's recollection as to what Marine was wearing he stated, "No." When asked whether it was a fact that Marine was wearing white shorts and not blue jeans at the time of his arrest and the Respondent replied, "I told you I don't remember what he was wearing." When asked whether he saw Marine change his clothes from the hospital to the precinct the Respondent replied, "I haven't seen him since the precinct." The Respondent acknowledged that he identified himself as a police officer when encountering Marine. He noted that he was unable to tell him the basis for the stop because it became a physical altercation and Marine punched him. He stated that he was not sure whether he punched Marine or not in the vestibule. He stated that he did not remember seeing any other officer punch Marine in the vestibule. The Respondent acknowledged that no pre-recorded buy money was ever recovered from Marine. The Respondent stated that he never observed a struggle between Clark and Reyes because his full attention was on Marine. He acknowledged that the first time he actually saw Reyes was after he was in handcuffs in his vehicle.

The Respondent acknowledged that being punched in the face by Marine took him by surprise and that it did hurt. He admitted that Marine was a pretty big guy. He admitted that Marine was not justified in striking him but he did acknowledge that he was upset about being punched in the face. When asked if he lost his temper, the Respondent stated that he did not have time think about his temper. When asked whether he yelled or screamed at Marine, he stated that his concentration was on him and making sure that he did not hit him again. He denied threatening him or threatening to "fuck him up." He denied getting angry, as he took Marine out to the police vehicle, when thinking about

getting punched in the face. He denied being angry or using any threatening words towards Marine. The Respondent acknowledged that Marine was injured in the vestibule. He stated that he did not know that his nose was broken at that time but he learned later on that his nose was broken. He acknowledged that he did not document that factor in his Activity Log either. He admitted that once Marine was placed in the van, his narcotics team did not take any additional investigative action towards the narcotics activity going on in the neighborhood. The Respondent was shown a case ready check list for Marine and Reyes (DX 7). He reviewed page two of the document which referred to the identification procedure and he noted that it indicated that the arresting officer was on the scene and that there was a drive by point out by the undercover.

During re-direct examination, the Respondent stated that with reference to the case ready check list, although he could not recall it, but according to his paperwork a point out was done by the undercover. He stated that by reviewing the paperwork it did refresh his recollection as to what had happened on the scene.

Upon questioning by the Court, the Respondent testified that his current hair cut, close shaven, close to the side, was the way he was wearing his hair in 2007. He explained that sometimes it grows a little longer but he generally leaves it in that same hair style. He testified that his hair color is black but that now he has more gray. He was unclear whether he had as much gray hair two years ago but he believed he had some gray. He stated that his hair color has always been black. When asked whether during the course of trying to arrest Marine and being punched in the face and being spit at with blood, whether he "hailed off" and hit Marine while handcuffing him, the Respondent replied, "No." He stated that, in the vestibule, he may have hit Marine while trying to

place him in handcuffs but at no point near the car did he hit him. He denied ever stating that he was going to "fuck him up" or state any words to that effect. He denied uttering any profanity once being hit in the face. When asked whether he sustained any injury, he stated that he just had pain and swelling and went to the hospital for treatment.

Upon further direct examination, the Respondent stated that he was not wearing a hood on his head and that neither his face nor his hair was ever covered at any point during the incident.

FINDINGS AND ANALYSIS

Specification Nos. 1 and 3

The Respondent stands charged herein in that on August 3, 2007, he wrongfully and without just cause did abuse his authority as a member of the New York City Police Department in that he did threaten to use force against Christopher Marine, to wit: said Detective stated in sum and substance, "I am going to fuck him up." The Respondent is found Guilty of Specification No. 1. The Respondent is also charged with abuse of authority in that he did use force against Marine, to wit: said Detective did use his hands and feet to strike Marine without police necessity. The Respondent is found Guilty in part of Specification No. 3.

Evidence adduced at trial established that Samura viewed the incident involving her nephew, Marine, from her bedroom window on the third floor. She testified that she could not see the face of the officer who was having the altercation with her nephew, but only one officer was having contact with him. She said only one officer escorted him out of the building where they lived while he was handcuffed. She also stated that it was the

same officer who slapped him causing him to slide down the car and she also heard the officer say to Marine that he would “fuck him up.”

Eason testified and identified the Respondent in Court as the officer who uttered profanity at Marine by stating that he was “going to fuck him up.” He also identified him as the one who slapped Marine causing him to slide to the ground. He also testified that there was no other officer who assisted in bringing Marine to the car or had contact with him. Eason’s testimony is important because as he heard the commotion in the lobby of his building, he went downstairs to see what was transpiring. And as Marine was being lead out of the vestibule, Eason testified that he went to the stoop and as he stood between the stoop and the open door to the building he watched what happened to Marine as he was being led out of the building.

Mensah testified that although she was not certain, the Respondent looked like the police officer who walked Marine to the car. Although identification by Mensah in this instance was not the best, circumstantial evidence from her testimony, coupled with Samura and Eason point to the Respondent as the police officer who walked Marine to the car and slapped him in the face. That is, all three witnesses testified that only one officer walked Marine out to the car and that same officer then slapped Marine and Eason positively identified him as the Respondent.

The neighbor, Mensah, who resided next door to the incident location, was the only independent witness. She was not a blood relation to Marine as Eason and Samura are. Yet she testified and corroborated the testimony of both Eason and Samura, which was seeing the officer hit Marine while he was handcuffed and Marine then falling to the ground. She testified that she only knew Marine from saying good morning to him. She

did not know his name, but she knew he was a neighbor. She also testified that she did not know his family by name either. Mensah stated that she could hear someone repeating, "I'm gonna fuck you up." She stated that initially she thought it was some children, but the words became stronger, more violent and threatening, so she decided to go to her window to see what was happening. She testified that she lived on the second floor as the incident unfolded right under her window.

Mensah described seeing one officer holding Marine by his shirt and taking him to stand by a van while Marine was handcuffed. She continued to hear the officer utter the words. She heard him tell those words to other officers on the scene and then she saw him hit Marine in the face. She stated that she could see the officer hit Marine, but she could not tell if it was an open hand or a closed fist from where she viewed the incident from her second floor window. She did see Marine slump down after being struck in the face. This testimony of Mensah was compelling.

Photographs in evidence depict the layout of the houses in question. Mensah testified that she lived next door to Marine at 1968 Morris Avenue. The photographs show a three-story building attached on both sides and that the distance from the second floor apartment window where Mensah testified that she resided to where the incident occurred at the curb directly outside of her window was a short distance. (See DX 4A). Mensah testified that the Respondent in court looked familiar and she thought he was the officer who led Marine to the car. Testimonial evidence of Mensah, Samura and Eason, however, taken as a whole, were corroborative of each other.

The Respondent testified that he was in a police vehicle during a buy and bust operation when he heard a transmission that someone fitting Marine's description took

off running. He chased Marine into the building vestibule. A struggle ensued and he was punched in the face by Marine. He was eventually able to get him to the ground and handcuff him. Although he admitted that he may have struck him during the arrest, in the lobby, he denied that he used any profanity toward him. The Respondent did admit to walking Marine out to the police vehicle. The Respondent also testified that once out at the car, Marine spit blood at him. He thought it caught him in the face, but it ended up on his shoulder. He denied using any profanity or striking Marine following the spitting incident which took place outside near the police vehicle while Marine was handcuffed.

The Court finds it hard to fathom that Marine would punch the Respondent in the face, spit blood at him and the Respondent had no verbal or physical reaction whatsoever that he would admit to in court. I did not find the Respondent's testimony to be forthcoming. In the alternative, the Respondent argued that a future threat, i.e., "I am going to fuck him up," is not actionable misconduct. Clearly the Respondent is not charged with harassment here. Yet the Respondent must keep in mind that his position as a police officer, sworn to protect and serve the public does not include the authority to threaten members of the public at will.

The Respondent called two detectives in his defense, Howell and Humphrey. Howell testified that he was in the vestibule with the Respondent. He did not see Marine punch the Respondent, but he saw Marine as he pulled his arm back as if going to hit the Respondent so he punched Marine to prevent him from punching the Respondent. Howell said he learned later on that the Respondent was, in fact, punched by Marine. Howell testified that although he could tell the Respondent was "agitated" about what had transpired in the vestibule, the Respondent uttered no words or profanity in relation

to how he was feeling. He made no physical gestures either and he could tell that he was agitated only from the look on his face. He also stated that he did not hear the Respondent or any other police officers on the scene utter any profanity. Howell did admit to seeing the Respondent walk Marine out to the police vehicle. I found the testimony of Howell to be restrained. Although he mentioned that the Respondent was "agitated," he would not elaborate any more than that statement. He never testified as to what made him come to that conclusion. In fact, he tried to back away from that observation that the Respondent was agitated by stating that it was just the expression on his face and nothing else.

Humphrey testified that he was present by the police vehicle when Marine spit blood at the Respondent. He saw the Respondent escorting Marine to the police vehicle. He stated that they were arguing with each other, but he only heard Marine using profanity. Then Marine spit blood at the Respondent. Aside from the Respondent moving back to prevent the blood from hitting him, he stated that he did not "recall" what the Respondent's reaction was because he was focused on trying to get Marine seated in the police vehicle. I found the testimony of Humphrey to be measured when he could not recall how the Respondent reacted when Marine spit at him. The act of spitting blood on someone is dangerous and memorable. After all, it was the spitting by Marine which allegedly caused Humphrey to assist the Respondent in placing Marine in the police vehicle. The fact that he had no recollection of how the Respondent reacted to being spit at is incredible.

Accordingly, I find the Respondent Guilty of Specification No. 1.

Three different civilian witnesses, Samura, Eason and Mensah, from three

different vantage points, each testified that the Respondent struck Marine as he stood handcuffed near the car. None of the witnesses' testimony was discredited during cross-examination. Each told the same account during direct and cross-examination and none of the witnesses seemed to have a motive to fabricate a story. The victim, Marine, does not have a civil lawsuit. Mensah testified that she did not even know Marine by name prior to the incident. Marine, who was unable to testify because of an unrelated incident which left him physically and mentally incapacitated, told CCRB that a witness to the event approached him and told him that she saw what happened from her window and would be willing to give a statement about what she observed if needed.

Marine stated through three hearsay statements that were offered into evidence that he was barraged by kicks and punches inside the vestibule of the building, outside of the building, as well as at the station house. He described initially running to his building with a friend, Reyes, in an effort to get out from the rain. Once inside his building, he was assaulted by at least two individuals; and he began to punch them to defend himself. He admitted to punching a person to his left and a person to his right who never identified themselves; and who he later learned were police officers. He further described making his body numb to avoid feeling the pain from the blows. He could not give complete descriptions of the officers involved. And none of his accounts could be completely corroborated by any of the Department witnesses. Eason testified that by the time he got down to the lobby, the police officers were trying to restrain Marine, who was on the ground. They were trying to place handcuffs on him and none of them were punching or kicking him at that time. Both Samura and Mensah testified that although they heard commotion downstairs from their apartments, they never went down to observe and thus

had no idea what transpired down there. Although Samura told CCRB that Marine was kicked in the stomach and groin; at trial she gave a different account. She testified that she could not see Marine's legs once he slid down to the ground. Although she saw the police officer's hands moving, she could not tell what part of Marine's body his hands were coming in contact with. Thus, without Marine's ability to identify any specific officer; the lack of corroboration from any witnesses as to the kicking and beating of Marine, and absent his live testimony as to what transpired, the Court is without the ability to determine who kicked or used his feet to strike Marine.

Accordingly, I find the Respondent Not Guilty as to the portion of the Specification No. 3 which states that he used his feet to strike Marine. However, based on the accounts of Eason, Mensah and Samura, I find the Respondent Guilty of using his hands to strike Marine without police necessity.

Specification No. 2

The Respondent stands charged herein in that on August 3, 2007, he did fail to maintain his Activity Log in that after an encounter with Mr. Christopher Marine, said Detective did not make sufficient notations about the encounter in his Activity Log or safeguard said Activity Log as provided for in Patrol Guide 212-08. The Respondent is found Guilty in part. With respect to safeguarding his Activity Log, it was alleged that the Respondent failed to produce his Activity Log when initially interviewed by CCRB and thus he was charged with failing to safeguard it. The Respondent testified that he faxed a copy of his Activity Log following the interview and upon the direction of the CCRB investigator. He stated that the fax may not have been received. Evidence

adduced at trial established that the Respondent did make entries in his Activity Log about the incident. He noted that two people were arrested in front of 1970 Morris Avenue. The Respondent produced his Activity Log at trial and the log was received in evidence (DX 5). Therefore, the portion of the Charge and Specification which states that the Respondent failed to safeguard his Activity Log is not supported by the evidence.

However, the portion of the Charge and Specification which states that the Respondent failed to maintain his Activity Log in that he failed to make sufficient notations after his encounter with Marine is supported by the evidence. The Respondent only noted that two arrests were made. He made no mention of having any type of altercation with one of the arrestees. He made no mention that he was punched in the face by Marine. He made no mention that he used force to arrest Marine in the vestibule of said building. He made no mention that Marine spit blood on him. He made no mention that as a result of his encounter with Marine, Marine was transported to the hospital and so was he. Marine made specific allegations that he was assaulted before and after being placed in police custody. Without a thorough account of what transpired in his Activity Log, the Respondent leaves himself open to an allegation of misconduct with nothing to defend himself with.

Aside from the rudimentary functions of accurately recording activities in one's Activity Log such as recording the day, date and tour, Patrol Guide 212-08 requires a member of the service to document unusual occurrences in his or her Activity Log. In this instance, the Respondent testified that Marine punched him in the face and spit blood which landed on him. Not only did he fail to document this occurrence, but he also failed to document what action he took as a result of that incident. For the Respondent to

simply record in his Activity Log for the August 3, 2007, that at 2205 hours two arrests were made in front of 1970 Morris Avenue, and nothing more, the entry is insufficient to refer to the alleged violent encounter the Respondent testified to that he had with Marine and that Marine disclosed during his interviews with CCRB.

Furthermore, even the Respondent acknowledged during cross-examination upon review of the Patrol Guide that he should have noted the Department forms that were completed as a result of Marine's arrest. It should be noted that although the Respondent reviewed the Patrol Guide section related to the Activity Log which was dated June 12, 2009, the Patrol Guide that was in effect during this incident date of August 3, 2007 contained the same provisions. The Respondent testified that both he and Marine were transported to the hospital. The Respondent should have noted this in his Activity Log, particularly since he was the arresting officer.

Accordingly, I find the Respondent Guilty in part of Specification No. 2 in that the Respondent failed to make sufficient entries in his Activity Log as it related to his encounter with Marine.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined, see *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974).

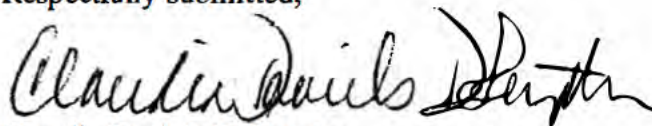
The Respondent was appointed to the Department on December 8, 1997. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Respondent has been found Guilty of three Specifications. He has been

found Guilty of threatening to use force against Marine, failing to maintain his Activity Log with respect to the incident involving Marine, and using force against Marine. The Assistant Department Advocate asked for a penalty of ten vacation days.

Based on the penalty recommendation of the Assistant Department Advocate and the Respondent's service record, I recommend that the Respondent forfeit ten vacation days.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

APPROVED
SEP 01 2010

RAYMOND W. KELLY
POLICE COMMISSIONER


POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE ANTHONY SCHAFER
TAX REGISTRY NO. 920817
DISCIPLINARY CASE NO. 84918/09

In 2006, 2007, and 2008 the Respondent received an overall rating of 4.0 “Highly Competent” on his last three annual performance evaluations. He was been awarded 13 medals for Excellent Police Duty, seven medals for Meritorious Police Duty and one Honorable Mention.

[REDACTED]. He
has no prior formal disciplinary record.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner –Trials